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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/516,482	03/01/2000	Joseph M. DeSimone	5051-460IP	3128

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EXAMINER

BISSETT, MELANIE D

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 08/16/2002

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/516,482

Applicant(s)

DESIMONE ET AL.

Examiner

Melanie D. Bissett

Art Unit

1711

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 July 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 73-122.


Claim(s) objected to: 68 and 72.

Claim(s) rejected: 1-15, 23-38, 46, 65-67 and 69-71.

Claim(s) withdrawn from consideration: _____.

8. ☒ The proposed drawing correction filed on 25 July 2002 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

Continuation of 2. NOTE: Claims 143, 145, and 148 recite a cell size range of 0.1-50 microns, and claims 145 and 148 recite the limitation "consisting essentially of PVDF and PMMA". Neither of these limitations were recited in original or amended claims and, especially in combination with other original and amended limitations, would require further consideration on the examiner's part. Were the amendment of Paper No. 14, filed 25 July 2002, to be entered, claims 123-142 would clearly be deemed substantial duplicates of claims 1-15, 23, and 65-68. Regardless, upon the entry of the amendment, it is the examiner's position that at least claim 123 would not be in condition for allowance due to the obviousness-type rejection cited in the final rejection. Although the applicants argue that Humphrey Jr. et al. does not suggest motivation for selecting closed-cell foams, it is noted that the reference suggests that closed cell structures may be made and that electrolyte conductivity occurs in the open regions. One skilled in the art would recognize from this teaching that electrolyte conductivity could be controlled by the use of closed cells. Although the applicants argue that the reference does not teach how to make closed-cell foams of the invention, it is the examiner's position that one of ordinary skill in the art would know to alter foaming conditions such as amount of blowing agent to achieve materials having closed cells. It is also noted that it could be argued that the suggestion of closed cells in Humphrey Jr. et al. teaches a material having distinct voids. Also, the examiner notes that unentered claim 146 contradicts the "marked-up" claim 146.



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PRIMARY EXAMINER
GROUP 1711